

REMARKS

Applicants have carefully considered the January 17, 2006 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance.

Claims 2-4 were pending in this application. Claims 2-3 were allowed and claim 4 was rejected. In response to the Office Action dated January 17, 2006, claim 4 has been amended and new independent claim 5 has been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification.

Applicants submit that the present Amendment places the application in condition for allowance and does not generate any new matter issue or any new issue requiring any further search and/or consideration. Accordingly, entry of the Amendment and prompt favorable reconsideration pursuant to 37 C.F.R. § 1.116 are respectfully requested.

Claim 4 was rejected under 35 U.S.C. § 102(e) as being anticipated by Morgan et al. (U.S. Pat. App. Pub. 2003/0227465, hereinafter "Morgan"). The Examiner referred to numbered paragraphs [0101] – [0108] and Figs. 1a, 1,b and 2, asserting the disclosure of a projection type video apparatus corresponding to that claimed. In response to Applicants' previously submitted arguments regarding the overdrive control means, the Examiner asserted that claim 4 did not require any limitations directed to the overdrive control means. Further, the Examiner asserted that with respect to the scrolling means of Morgan, claim 4 recites that the pattern of the light scrolling is in an inverted U shape and not the totality of the light irradiating the modulator.

Applicants respectfully traverse the rejection. Moreover, new claim 5 is free from the applied art for the reasons set forth below.

Applicants would stress that the factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). There are significant differences between the claimed invention and the device disclosed by Morgan that would preclude the factual determination that Morgan identically describes the claimed inventions within the meaning of 35 U.S.C. § 102.

In the Morgan reference, the color wheel 114 (Fig. 2) includes the four light transmission portions 126R, 126B, 126W for transmitting the four particular colors R, G, B and W, respectively. This enables display of video light or the three colors R, G and B by only a single light valve (DMD 122).

In contrast, the light scrolling disc, as described in independent claim 4 and newly added independent claim 5, comprises the spiral-shaped light transmission portion for transmitting light of all colors and the other light interruption portion for interrupting light of all colors. Use of this type of scrolling disc allows intermittent display as shown in Fig. 13 of the specification (e.g., the intermittent display where one-third of a frame period is displayed and two-thirds of the frame period not displayed, thereby preventing occurrence of a double image (blurring)). Therefore, the organization of the light scrolling discs as recited in claims 4 and 5 are distinct from that of Morgan.

For the foregoing reasons, Applicants respectfully submit that Morgan fails to identically disclose every claim feature of claim 4. Accordingly, the rejection under 35 U.S.C. § 102(e) is not legally viable and should be withdrawn. Moreover, for the foregoing reasons, Applicants submit that independent claim 5 is patentably distinct from Morgan.

Applicants note the Examiner's Statement of Reasons for Allowance included on page 3 of the Office action. Entry of that Statement into the record should not be construed as any agreement with or acquiescence by Applicants in the reasoning stated by the Examiner. Applicants positions on the issues appear in Applicants' response. *Salazar v. Procter & Gamble Co.*, 414 F.3d 1342 (Fed. Cir. 2005). The Statement of Reasons for Allowance should not be used to interpret the cited claims, particularly to the extent if any that the Statement of Reasons for Allowance may differ from the express language of the claims and/or Applicants' positions on patentability of those claims. It is respectfully submitted that the allowed claims should be entitled the broadest reasonable interpretation and broadest range of equivalents that are appropriate in light of the language of the claims, the supporting disclosure and Applicants' prosecution of the claims, without reference to the Statement of Reasons for Allowance.

It is believed that pending claims 2-5 are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

10/808,614

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw:apr
Facsimile: 202.756.8087
Date: April 12, 2006

**Please recognize our Customer No. 20277
as our correspondence address.**